

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

LEONARD-DERON SEAMON (Living
Private Man) was held as: Leonard Deron
Seamon, (person) and/or Seamon,
Leonard Deron,

Case No. 23-CV-3302 (JWB/JFD)

Plaintiff,

v.

REPORT AND RECOMMENDATION

MINNESOTA DEPARTMENT OF
CORRECTIONS and PAUL SCHNELL,
Commissioner, Official Capacity

Defendants.

In an order dated October 30, 2023, this Court ordered Mr. Seamon to pay an initial partial filing fee of \$13.00 to commence this action. (Dkt. No. 4.) Mr. Seamon was given 21 days from the date of that Order, or until November 21, 2023, to pay the initial partial filing fee or submit additional financial information from which the initial partial filing fee could be recalculated, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has now passed, and Mr. Seamon has neither paid the initial partial filing fee nor submitted additional financial information from which this Court could recalculate his initial partial filing fee. In fact, Mr. Seamon has not communicated with this Court in any way since initiating this action. Accordingly, this Court now recommends, in accordance with its prior Order, that this action be dismissed without

prejudice under Rule 41(b) for failure to prosecute. *See Wewerka v. Roper*, 431 F. App'x 517, 517 (8th Cir. 2011) (per curiam) (affirming dismissal without prejudice pursuant to Rule 41(b) following prisoner's failure to pay initial partial filing fee).

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: November 29, 2023

s/ John F. Docherty
JOHN F. DOCHERTY
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).